

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

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SEP 29 2004

U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS

HILL DESIGN, INC.,

Plaintiff,

v.

ROYLCO, INC.,

Defendant.

Civil Action No. 04-30100-KPN

**PLAINTIFF HILL DESIGN, INC.'S
ANSWER TO DEFENDANT'S
COUNTERCLAIMS**

ANSWER TO COUNTERCLAIMS

NOW COMES plaintiff Hill Design, Inc. ("Hill Design"), and answers defendant Roylco, Inc.'s ("Roylco") counterclaims asserted in the answer to Hill Design's complaint. Hill Design's responses in the numbered paragraphs below are meant to correspond to the numbered paragraphs of Roylco's counterclaims.

1. Paragraph 1 is a jurisdictional statement and does not require an answer.

Count I

2. Hill Design re-alleges and repeats its response in paragraph 1 above.

3. Hill Design is without knowledge or information sufficient to form a belief as to the truth of the averment that there has been no actual confusion, and, therefore, denies same.

Hill Design denies the remaining averment in the paragraph.

Count II

4. Hill Design re-alleges and repeats its responses in paragraphs 1-3 above.
5. Denied.

Count III

6. Hill Design re-alleges and repeats its responses in paragraphs 1-5 above.
7. Denied.
8. Denied.

Count IV

9. Hill Design re-alleges and repeats its responses in paragraphs 1-8 above.
10. Admitted.
11. Denied.

AFFIRMATIVE DEFENSE

First Affirmative Defense

1. Roylco's counterclaims fail to state grounds upon which relief can be granted.

Second Affirmative Defense

2. Roylco's trademark rights, if any, are junior and inferior to those of Hill Design, and Roylco's junior marks create a likelihood of consumer confusion with Hill Design's marks.

Third Affirmative Defense

3. Roylco is a willful infringer of Hill Design's senior trademark rights.

Fourth Affirmative Defense

4. If Roylco is suffering or will suffer any damages or financial consequences, it is solely due to Roylco's own actions or omissions.

Fifth Affirmative Defense

5. As to Roylco's second count, Roylco has failed to allege that Hill Design made even a single false statement in Hill Design's opposition filed in the U.S. Trademark Trial and Appeal Board.

6. Hill Design's opposition filed in the U.S. Trademark Trial and Appeal Board contains not a single false statement, and thus the Trademark Trial and Appeal Board could not have been misled in any way by any misrepresentation of Hill Design.

Sixth Affirmative Defense

7. Roylco's conduct establishes that Roylco has unclean hands that bars Roylco's counterclaims.

Seventh Affirmative Defense

8. Roylco has failed to mitigate its damages, if any have occurred.

Eight Affirmative Defense

9. Hill Design has acted in good faith toward Roylco at all times relative to Roylco's counterclaims.

Ninth Affirmative Defense


10. Roylco's counterclaims, if any, are subject to set-off, including, but not limited to any damages done to Hill Design and Hill Design's business, as set forth in Hill Design's complaint.

Respectfully submitted,

HILL DESIGN, INC..
Plaintiff and
Counterclaim Defendant

Dated: September 28, 2004

By:


Garfield B. Goodrum, Jr.
Secretary

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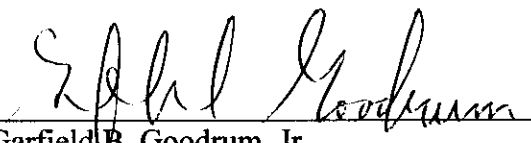
DOHERTY, WALLACE, PILLSBURY AND
MURPHY, P.C.

Attorneys for Defendant Hill Design, Inc.

The undersigned certifies that he mailed a copy of **PLAINTIFF HILL DESIGN, INC.'S ANSWER TO DEFENDANT'S COUNTERCLAIMS** to Defendant's counsel, J. Kevin Grogan, McCormick, Paulding & Huber LLP, CityPlace II, 185 Asylum Street, Hartford, CT 06103, via U.S. Mail, First Class service on September 28, 2004.

HILL DESIGN, INC..
Plaintiff and
Counterclaim Defendant

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By: 
Garfield B. Goodrum, Jr.
Secretary